

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hilary Hudson	Team: Team # 1	CCRB Case #: 201104637	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/06/2011 8:26 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 10/6/2012	Precinct: 23
Date/Time CV Reported Thu, 04/07/2011 5:20 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/13/2011 12:39 PM

<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

<b>Witness(es)</b>	<b>Home Address</b>
§ 87(2)(b)	§ 87(2)(b)

<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>
1. POM Ramiro Ruiz	07987	939384	023 PCT
2. POM Victor Charles	06096	941538	023 PCT

<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>
1. SGT Thomas Durkin	01109	906161	023 PCT

<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>
A . POM Ramiro Ruiz	Force: PO Ramiro Ruiz struck § 87(2)(b) with an asp.	§ 87(2)(b)
B . POM Victor Charles	Force: PO Victor Charles struck § 87(2)(b) with an asp.	§ 87(2)(b)

### Case Summary

On April 7, 2011, Sgt. Tanisha Jones from Manhattan Central Booking made this complaint to IAB after § 87(2)(b) reported the following incident to her (encl. 5). IAB referred the case to the CCRB on April 13, 2011, under Log #11-15689.

On April 6, 2011, at approximately 8:26 p.m., in front of § 87(2)(b) in Manhattan, § 87(2)(b) and § 87(2)(b) were arrested and the following allegations resulted:

- **Allegation A – Force: PO Ramiro Ruiz struck § 87(2)(b) with an asp.**
  - **Allegation B – Force: PO Victor Charles struck § 87(2)(b) with an asp. § 87(2)(g)**
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)

### Results of Investigation

#### Civilian Statements

##### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black/Hispanic male, 5'11" tall, 160 pounds with black hair and brown eyes. § 87(2)(b)

##### Statements to Medical Personnel

According to § 87(2)(b)'s medical records from the § 87(2)(b) on § 87(2)(b), the day he was released from Central Booking (encl. 21A-N), he told medical personnel that three days prior, at § 87(2)(b) he was assaulted by officers while in the hallway in front of an apartment door. Officers approached him and asked him questions and started frisking him. § 87(2)(b) refused to get on his knees when instructed to do so by the officers. A struggle ensued and he was hit in his legs, neck, hands, and left elbow with a baton. § 87(2)(b) refused medical attention when officers asked if he wanted it.

##### CCRB Testimony

§ 87(2)(b) provided a phone statement on April 18, 2011 and was interviewed at the CCRB on April 21, 2011 (encls. 7 and 8A-F). § 87(2)(g)

On April 6, 2011, shortly before 8:26 p.m., § 87(2)(b) went to visit his friend, § 87(2)(b) at § 87(2)(b)'s mother's § 87(2)(b) apartment, located at § 87(2)(b) in Manhattan. This is a NYCHA building. § 87(2)(b) has known § 87(2)(b) for a couple of years.

§ 87(2)(b) and § 87(2)(b) talked in the hallway in front of the apartment for two to three minutes. No one else was in the hallway. Two plainclothes officers emerged from the stairwell. Although he was not facing the officers, he knew they came from the stairwell because he heard the stairwell door shut. The first officer, identified through the investigation as PO Ramiro Ruiz, was a Hispanic male, taller than 5'11", 220 to 240 pounds, with black hair, light to medium complexion, in his 40s. The other officer, identified through the investigation as PO Victor Charles, was a black male, taller than 5'11", 170 pounds, with black hair, in his late 30s.

PO Charles asked § 87(2)(b) and § 87(2)(b) how they were doing. § 87(2)(b) turned around and responded similarly. The officers then asked what § 87(2)(b) had in his

hand. § 87(2)(b) had his dark gray flip phone in his left hand; he had nothing else in his hands. He did not answer the officers. Neither before nor as the officers approached did § 87(2)(b) and § 87(2)(b) exchange anything, nor did he and § 87(2)(b) make any physical contact.

PO Ruiz and PO Charles told § 87(2)(b) to get down to his knees. § 87(2)(b) verbally refused in a loud voice, because he had not done anything wrong. PO Ruiz and PO Charles each grabbed § 87(2)(b)'s upper arms and tried to put him down on the floor, but § 87(2)(b) resisted. PO Ruiz and PO Charles took out their expandable metal asps and hit him in the legs. Specifically, PO Ruiz struck him in the left calve muscle three to five times. PO Charles hit him in the back of the neck once. PO Ruiz or PO Charles hit him in the elbow once.

PO Ruiz and PO Charles eventually got § 87(2)(b) down and handcuffed him. They frisked and searched him but found nothing on him. The officers recovered a small sandwich bag of what appeared to be cocaine somewhere on the floor of the hallway. § 87(2)(b) had not seen this bag before.

Several more officers (identified through the investigation as Sgt. Thomas Durkin, PO Michael Cintron, and PO Christopher Banas) showed up after PO Ruiz and PO Charles called for them. § 87(2)(b)'s mother was home and she allowed the officers to enter and search her apartment. § 87(2)(b) said during his phone statement that drugs were found somewhere in the apartment.

§ 87(2)(b) was taken to the 23<sup>rd</sup> Precinct in an unmarked car and then to Manhattan Central Booking. He did not feel injured until Central Booking, when he noticed a "hole" on his left elbow that was bleeding. The gash was bandaged and he did not want to go to the hospital because he wanted to get out of court. § 87(2)(b) went to § 87(2)(b) after his release, on § 87(2)(b).

**Witness:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Hispanic male, 5'7" tall, 220 pounds, with a bald head and brown eyes. § 87(2)(b)

**CCRB Testimony**

§ 87(2)(b) provided a telephone statement on May 2, 2011 and was interviewed at the CCRB on May 10, 2011 (encls. 9 and 10A-E). Inconsistencies in his statements are noted.

On April 6, 2011, before 8:26 p.m., § 87(2)(b) was at his mother's (§ 87(2)(b)) apartment located at § 87(2)(b) in Manhattan. He was helping her throw away items after one of his uncles moved away. § 87(2)(b) was there for about twenty to thirty minutes when he received a phone call from § 87(2)(b) a childhood friend. § 87(2)(b) wanted to know what § 87(2)(b) was doing and § 87(2)(b) asked if § 87(2)(b) would come help him throw out some furniture. § 87(2)(b) agreed to come help.

§ 87(2)(b) met § 87(2)(b) in the hallway in front of the apartment. The apartment door was closed but unlocked and there was an enclosed stairwell a few steps away. § 87(2)(b) had a coat or bag in his hand, but said during his phone statement that he did not think § 87(2)(b) had anything in his hands. They did not make physical contact. § 87(2)(b) did not hand § 87(2)(b) anything, or vice versa. § 87(2)(b) and § 87(2)(b) stood there talking for about two to three minutes before an officer, identified through the investigation as PO Ramiro Ruiz, stuck his head out from the stairwell and asked what they were doing and if they had ID. PO Ruiz was a light-skinned Hispanic male, 5'8" tall, 180 pounds, in his late 20s or early 30s, dressed in plainclothes. His partner, identified through the investigation as PO Victor Charles, was a black male or dark-skinned Hispanic male, curly hair, 5'9" tall, stocky build, in his late 30s, also in plainclothes.

§ 87(2)(b) told the officers he had ID but § 87(2)(b) did not respond. § 87(2)(b) had his arms down at his sides with nothing in his hands, but PO Charles asked § 87(2)(b) what he had in his hand. PO Ruiz and PO Charles tried to get § 87(2)(b) against the wall and search him; however, § 87(2)(b) moved backwards to prevent the officers from touching him. PO Ruiz and PO Charles tried to take § 87(2)(b) down to the floor but § 87(2)(b) resisted, not allowing the officers to take him down. The officers told him several times to get down but he did not comply. PO Ruiz was on § 87(2)(b)'s right and PO Charles was on his left. Both officers removed their asps. PO Charles struck § 87(2)(b) twice in the back of the head. During his phone statement, § 87(2)(b) said that PO Charles struck § 87(2)(b) in the back of the neck and on his left calf. The officers struck him in the left arm and left leg. § 87(2)(b) was standing on his feet but was hunched over.

§ 87(2)(b) opened the apartment door during the struggle and PO Ruiz told her to close the door, which she did. During his phone statement, § 87(2)(b) said that he told his mother to close the door. § 87(2)(b) eventually gave up and got on his knees. They handcuffed § 87(2)(b) and searched him with negative results. The officers then searched § 87(2)(b) with negative results and handcuffed him. PO Ruiz stayed with § 87(2)(b) while PO Charles walked § 87(2)(b) a few feet away. PO Ruiz asked § 87(2)(b) what he was going there, to which § 87(2)(b) explained that he was helping his mother throw out garbage. § 87(2)(b) showed PO Ruiz his ID when asked, which lists his mother's address.

PO Ruiz took § 87(2)(b) over to PO Charles. § 87(2)(b) and § 87(2)(b) sat on the floor. PO Ruiz went into § 87(2)(b) apartment, closing the door behind him. PO Ruiz exited shortly afterwards and told PO Charles that he found something. § 87(2)(b) did not know what PO Ruiz found. Also, when PO Ruiz walked out of the apartment he saw a small plastic item on the ground near the staircase and said, "Oh, this is it." [It should be noted that earlier in the interview, § 87(2)(b) stated that after PO Ruiz found the plastic bag on the ground, § 87(2)(b) was handcuffed. That was when PO Ruiz went into the apartment, went into the rooms, and when he exited he reported finding something inside].

§ 87(2)(b) could not see well the small plastic item the officer found since it was about ten steps away. He could not describe the item other than it being small and plastic [although earlier in the interview he said it was a bag]. § 87(2)(b) denied possessing or seeing it before, did not see § 87(2)(b) with it, and did not know whose it was or how it got there.

About five plainclothes officers arrived as back-up, including officers identified through the investigation as Sgt. Thomas Durkin, PO Michael Cintron, and PO Christopher Banas. § 87(2)(b) signed a paper to give the officers permission to search the apartment. During his phone statement, § 87(2)(b) said that officers allegedly found 4 oz. of cocaine in the apartment.

### **NYPD Statements:**

#### **Subject Officer: PO RAMIRO RUIZ**

- § 87(2)(b) -old Hispanic male, 6'0" tall, 240 pounds, with black hair and brown eyes.
- On the date of the incident, assigned to the 23<sup>rd</sup> Precinct anti-crime team. He worked from 2:00 p.m. until 10:35 p.m., was partnered with PO Victor Charles, was dressed in plainclothes, and was assigned to unmarked vehicle #4308.

#### **Memo Book**

On April 6, 2011 at 7:50 p.m., PO Ruiz PO Charles performed a vertical patrol at § 87(2)(b) in Manhattan (encl. 11A-C). At 8:26 p.m., two arrests were made inside the building at § 87(2)(b) for § 87(2)(b). He returned to the stationhouse at 9:00 p.m. and began arrest processing at 9:30 p.m.; § 87(2)(b) and § 87(2)(b) § 87(2)(b)

§ 87(2)(b) gave consent to search her son's room where he lives and has all his belongings. Sgt. Durkin was on scene. Two stop, question, and frisk reports were prepared and all property was vouchered.

## Stop, Question, and Frisk Reports

PO Ruiz prepared the stop, question, and frisk reports for § 87(2)(b) and § 87(2)(b) for suspected criminal possession of a controlled substance (encl. 12A-B). On April 6, 2011, at 8:00 p.m., at § 87(2)(b) in Manhattan, § 87(2)(b) and § 87(2)(b)'s actions were indicative of engaging in a drug transaction and both made furtive movements. Additionally, a clear bag of alleged cocaine was recovered from the floor where § 87(2)(b) threw it.

## Criminal Complaint and Arrest Reports

PO Ruiz also prepared § 87(2)(b) and § 87(2)(b)'s criminal complaint and reports (encl. 13A-F). On April 6, 2011, at 8:00 p.m., inside of § 87(2)(b) in Manhattan (at Apt. § 87(2)(b)), § 87(2)(b) was observed exchanging a clear bag with alleged cocaine for U.S. currency with § 87(2)(b). § 87(2)(b) tried to destroy evidence and resisted arrest. § 87(2)(b) was in possession of a large quantity of a controlled substance as well as drug packaging, scale, and name stamps. Nightsticks/blunt instruments were used to restrain/control/remove § 87(2)(b). § 87(2)(b) was charged with § 87(2)(b).

§ 87(2)(b) was charged with § 87(2)(b)

## CCRB Testimony

PO Ruiz was interviewed at the CCRB on July 26, 2011 (encl. 14A-B). On April 6, 2011, at approximately 7:50 p.m., PO Ruiz and PO Charles conducted a vertical patrol inside of § 87(2)(b) in Manhattan. They were walking down the stairwell when PO Ruiz peeked around the corner and noticed two males § 87(2)(b) and § 87(2)(b) in the stairwell near the door leading to the § 87(2)(b) floor. § 87(2)(b) handed § 87(2)(b) a clear bag the size of a golf ball containing what appeared to be cocaine. § 87(2)(b) gave § 87(2)(b) money in exchange for the aforementioned narcotics.

As soon as § 87(2)(b) and § 87(2)(b) saw PO Ruiz and PO Charles, they recognized them as police officers and entered the § 87(2)(b) floor. § 87(2)(b) and § 87(2)(b) attempted to go inside Apt. § 87(2)(b) where § 87(2)(b) lives with his mother. PO Ruiz verbally identified himself and PO Charles as police officers and told them not to move. § 87(2)(b) still had the narcotics in his left hand. PO Ruiz grabbed his left hand in an attempt to recover the drugs. § 87(2)(b) pulled away and held his hands tightly against the front of his body. PO Ruiz and PO Charles each grabbed one of § 87(2)(b)'s arms in an attempt to recover the narcotics and place him under arrest. § 87(2)(b) resisted by not allowing the officers to put his arms behind his back. § 87(2)(b) then tried to put the clear bag of narcotics into his mouth. PO Ruiz pulled § 87(2)(b)'s hand down to stop him from swallowing the drugs and destroying the evidence. § 87(2)(b) was standing at the time and the officers struggled with him for about two minutes. He did not heed their multiple commands to stop resisting. PO Ruiz then struck § 87(2)(b) with an asp several times in the thigh to overcome § 87(2)(b)'s resistance and to place him under arrest. PO Charles struck § 87(2)(b) an unknown number of times on his other thigh. § 87(2)(b) was not struck in the back of the neck with an asp, nor was any other kind of force used against the back of his neck. The area where the struggle occurred was small and PO Ruiz

thought it was possible that § 87(2)(b) might have struck his elbow against a wall. He did not believe that § 87(2)(b) was struck in the elbow with an asp.

§ 87(2)(b) still continued to struggle and threw the drugs near the doorway of Apt. § 87(2)(b). § 87(2)(b)'s mother opened the apartment door at some point during the struggle and PO Ruiz did not want her to close the door because the drugs were in the doorway. PO Ruiz and PO Charles were eventually able to handcuff § 87(2)(b). § 87(2)(b) did not interfere with § 87(2)(b)'s arrest but witnessed what happened. § 87(2)(b) was compliant and offered no resistance when they handcuffed him.

PO Ruiz discovered that some of the cocaine spilled out of the bag near the doorway. Sgt. Durkin and other unknown officers responded. § 87(2)(b)'s mother gave the officers permission to search her apartment. Approximately five ounces of cocaine was recovered in § 87(2)(b)'s room, in addition to baggies, scales, and other drug paraphernalia. § 87(2)(b) never requested medical attention, did not complain about being injured, and had no apparently visible injuries.

**Subject Officer: PO VICTOR CHARLES**

- § 87(2)(b) -old black male, 5'10" tall, 240 pounds, with black hair and brown eyes.
- On the date of the incident, assigned to the 23<sup>rd</sup> Precinct anti-crime team. He worked from 2:00 p.m. until 10:35 p.m., was partnered with PO Ramiro Ruiz, was dressed in plainclothes, and was assigned to unmarked vehicle #4308.

**Memo Book**

On April 6, 2011, at an unspecified time, PO Charles and PO Ruiz performed a vertical patrol at § 87(2)(b) and stopped two males for suspected criminal possession of a controlled substance (encl. 15A-C). PO Charles went to the hospital after being injured during the arrest of the defendants. He was out for three days with a line of duty injury.

**AIDED Report**

On April 6, 2011, at 7:50 p.m., inside of § 87(2)(b) in Manhattan, PO Charles suffered injuries to his left pinky finger, right hand, and lower back while apprehending a perpetrator (encl. 16A-E).

**CCRB Testimony**

PO Charles was interviewed at the CCRB on August 23, 2011 (encl. 17A-B). On April 6, 2011, at approximately 8:26 p.m., PO Charles and PO Ruiz were conducting a vertical patrol inside of § 87(2)(b) in Manhattan. On their way down, on an unknown floor, they saw two males § 87(2)(b) and § 87(2)(b) engage in a drug transaction. PO Charles and PO Ruiz made this observation from the hallway three to five feet away, looking through the window of the stairwell door. § 87(2)(b) gave an object to § 87(2)(b). It was a white substance in a plastic wrapping, approximately the size of a fist. PO Charles did not see § 87(2)(b) give § 87(2)(b) anything before, during, or after that.

PO Charles and PO Ruiz then entered the floor from the stairwell door and approached § 87(2)(b). PO Charles told § 87(2)(b) to show them what was in his hand; § 87(2)(b) was still holding onto the white substance in the plastic wrapping. § 87(2)(b) did not comply and tried to get away. He tried to push by PO Charles and PO Ruiz, then tried to put the object in his mouth. PO Charles pulled § 87(2)(b)'s hand away from his mouth while trying to control § 87(2)(b)'s other hand. § 87(2)(b) pushed, punched, and kicked at them. They took him to the ground twice (pulling his legs out from under him) and § 87(2)(b) got up each time, refusing to stay on the ground so they could handcuff him.

§ 87(2)(b) fought and struggled the entire time they tried handcuffing him. He was trying to get to the stairwell to escape, and did not heed their instructions to stop resisting. PO Charles and PO Ruiz used their asps against § 87(2)(b). PO Charles struck him in the leg/thigh area more than twice. PO Charles did not recall hitting § 87(2)(b) in the back of his head or elbow with the asp, and thought that any injury sustained to the back of his head or elbow might have happened from the ground or walls (PO Charles' own head hit the floor and walls during the struggle). PO Ruiz extended his asp but PO Charles did not recall if PO Ruiz used it.

During the struggle, § 87(2)(b) threw the drugs off to the side. Some of it was on his face. The package was ripped open so the drugs had to be scraped off the floor at the end of the struggle. § 87(2)(b) did not intervene. An older female § 87(2)(b)'s mother) opened the apartment door during the struggle and PO Ruiz told her to call the police. He was unaware if she did.

After § 87(2)(b) and § 87(2)(b)'s arrest, § 87(2)(b)'s mother agreed for the apartment to be searched. He did not deal with her, so he could not provide additional details about that. PO Charles did not recall if Sgt. Durkin responded. PO Charles did not observe any injuries to § 87(2)(b). § 87(2)(b) did not hear him complain of being injured. PO Charles had bruises and soreness to his arms, shoulder, hand wrist, knee, and thigh. He went to § 87(2)(b).

**Witness Officer: SGT. THOMAS DURKIN**

- § 87(2)(b) -old white male, 5'11" tall, 220 pounds, with brown hair and brown eyes.
- On the date of the incident, working as the 23<sup>rd</sup> Precinct conditions sergeant. He worked from 2:00 p.m. until 10:37 p.m., was partnered with PO Michael Cintron and PO Christopher Banas, was dressed in plainclothes, and was assigned to an unmarked black Impala #783.

**Memo Book**

At 8:00 p.m., Sgt. Durkin and his partners responded to an administrative 10-85 called by PO Ruiz at § 87(2)(b). PO Ruiz had two male suspects in custody (encl. 18A-C). At 8:10 p.m., Sgt. Durkin received verbal consent from resident § 87(2)(b) to search § 87(2)(b) in connection with a drug sale investigation. § 87(2)(b) is the sole tenant on the lease and gave permission. At 8:26 p.m., PO Ruiz arrested § 87(2)(b) and § 87(2)(b).

**CCRB Testimony**

Sgt. Durkin was interviewed at the CCRB on June 30, 2011 (encl. 19A-B). On April 6, 2011, at approximately 8:00 p.m., PO Ruiz requested that he respond administratively to § 87(2)(b) in Manhattan. When Sgt. Durkin and his partners arrived, PO Ruiz pointed to narcotics that had spilled on the ground near the stairwell and advised Sgt. Durkin not to step in it. Sgt. Durkin believed it was cocaine and saw a ripped plastic bag nearby. Sgt. Durkin did not remember the size of the bag or the amount of cocaine. § 87(2)(b) and § 87(2)(b) were handcuffed and up against a wall. It did not appear that § 87(2)(b) or § 87(2)(b) was injured, but since both of them were sweaty, Sgt. Durkin believed they had resisted arrest.

PO Ruiz and his partner, PO Charles, informed Sgt. Durkin that they were patrolling in the building when one of the males tried to swallow the plastic bag containing cocaine. Sgt. Durkin did not witness that or the arrests of § 87(2)(b) and § 87(2)(b). He did not remember if PO Ruiz and PO Charles told them they used their nightsticks against § 87(2)(b).

Sgt. Durkin obtained verbal permission from § 87(2)(b) to search the apartment, then officers from the field intelligence unit responded and § 87(2)(b) signed the consent form. Almost five ounces of cocaine was recovered from § 87(2)(b)'s bedroom inside the apartment.

### **Medical Records**

- According to his pre-arraignment screening form, § 87(2)(b) was seen at Manhattan Central Booking on April 7, 2011 at 5:14 a.m. (encl. 20A-B). He was not sick or injured, and there was nothing noted in the visual assessment section.
- § 87(2)(b) went to the § 87(2)(b) on § 87(2)(b) after an officer struck him with a baton in the neck, leg, thigh, back, and hand several days prior (encl. 21A-N). He denied loss of consciousness but had dizziness, blurry vision, nausea with vomiting, and was unable to taste anything. He walked with a limp. § 87(2)(b) had tenderness and swelling to the base of his left neck area. He had a bruise to his right thigh, a bruise (with edema) over both wrists/forehands, a bruise to his left shin, and a bruise (with edema) greater than 10 cm. to his posterior calf. He had a ½ to 1 cm. long, scabbed laceration (and edema) to his left elbow. Two CT scans (“head without contrast” and “orbits without contrast”) were negative for fracture. An x-ray of his right wrist was also negative for fracture or dislocation, but noted soft tissue swelling over the palmar aspect of the proximal right hand. He was discharged home with a prescription for 600 mg ibuprofen and a referral to a social worker.

### **NYPD Documents**

#### **SPRINT Report and Communications CD**

SPRINT #§ 87(2)(b) indicated that at 8:26 p.m. on April 6, 2011, at § 87(2)(b) (the communications CD confirmed the location was actually reported as building § 87(2)(b) not § 87(2)(b) two persons were under arrest on the § 87(2)(b) floor (encl. 22).

#### **Command Log**

§ 87(2)(b) and § 87(2)(b) were logged in as PO Ruiz's arrests for § 87(2)(b) at 8:30 p.m. on April 6, 2011 (encl. 23). § 87(2)(b)'s appearance was apparently normal and he did not request medical attention. Sgt. Durkin verified their arrests and they were transported to Central Booking at 3:00 a.m.

#### **Property Invoices**

Eleven property invoices were prepared regarding § 87(2)(b) and § 87(2)(b)'s arrests (encl. 24A-Q). Invoice #§ 87(2)(b) listed an unspecified amount of alleged cocaine in a clear plastic bag. Invoice #§ 87(2)(b) listed two clear plastic bags of alleged cocaine and four wax paper envelopes of alleged heroin. Invoice #§ 87(2)(b) listed seven pink stamps with drug brand name, one “digiweigh” scale, a clear zip top bag containing a large quantity of drug packaging zip top bags, a beige/tan box containing wax paper envelopes for packing drugs, a black grinder used for breaking down drugs into powder.

### **Arrests for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]



- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Status of Civil Proceedings**

- As of December 2, 2011, [§ 87(2)(b)] has not filed a Notice of Claim with the City of New York with regard to the incident (encl. 28C).

### **Civilian Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian CCRB History**

- This is [§ 87(2)(b)]'s first complaint with the CCRB (encl. 4).

### **Officer CCRB Histories**

- PO Ruiz has been a member of the service for 6 years and there are no substantiated allegations against him (encl. 2).
- PO Charles has been a member of the service for 5 years and there are no substantiated CCRB allegations against him (encl. 3). [§ 87(4-b) § 87(2)(g)]

## **Conclusion**

### **Identification of Subject Officers**

- PO Ruiz and PO Charles acknowledged hitting [§ 87(2)(b)] with their asps. [§ 87(2)(g)]

### **Investigative Findings and Recommendations**

#### **Allegation A – PO Ramiro Ruiz struck [§ 87(2)(b)] with an asp.**

#### **Allegation B – PO Victor Charles struck [§ 87(2)(b)] with an asp.**

It is not disputed that [§ 87(2)(b)] refused the officers instructions to get on the floor. However, the civilian account of resistance offered is described as being passive. The officers describe [§ 87(2)(b)] as offering physical resistance while also trying swallow narcotics and tampering with physical evidence, which prompted the use of asps. The civilians stated that [§ 87(2)(b)] was struck with an asp in his head or neck area, and his medical records confirm that he has bruising near his neck. The officers believed that [§ 87(2)(b)] received injuries to parts of his body other than his thighs, where they admitted to striking him, from the struggle and possibly hitting the wall during the struggle.

Although Patrol Guide Procedure 203-11 dictates that officers use only the minimum amount of force necessary to overcome assault or effect an arrest (encl. 1a-b), the civilian testimony counters the officer testimony that this was the situation at hand. Furthermore, the NYPD Police Student's Guide (encl. 1c) states that while an asp can be used on certain parts of the body, using

an asp on the head, throat and neck, solar plexus, and groin constitutes deadly force, and neither officer nor civilian testimony described a situation warranting deadly physical force.

§ 87(2)(g)

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Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date